IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 5140 OF 2007

Mahadev Gaudu Patil .... Petitioner

versus

The State of Maharashtra & ors..... Respondent.

Mr. Sachin Manale i/b. S.S.Pakale for the petitioner.
Mr. S.K.Chinchalikar AGP for Respondents 1 to 4.
Mr. Amit Borkar for Respondents 4 and 5.

CORAM; A.P. DESHPANDE, J.
DATED; 30TH AUGUST, 2007

P.C.;

1. Rule. Rule made returnable forthwith. Taken up for final hearing by consent of parties.

2. The petiitoner is an elected sarpanch of village panchayat Tudiye, Tal. Changad, Dist. Kolhapur. The petitioner was proceeded against under section 14(g) of the Bombay Village Panchayat Act. The Collector passed an order, holding that the petiitoner had incurred disqualification under section 14(g) of the Act and thus further declared that a vacancy had occured on account of incurring of disqualification by the petitioner. Aggreived by the order passed by the Collector, the present petitioner filed revision before the State Government under sub section (2) of

section 16. The State Government allowing the stay application moved by the present petitioner in revision, stayed the order passed by the Collector. However the stay granted by the State Government came to be vacated by the impugned order dated 6-6-2007. The greivance of the petitioner is that the order of stay came to be vacated without affording him any opportunity of being heard in the matter. The record reveals that though notices were issued to the present petitioner, with a view to affording him an opportunity of hearing, the notices were not received prior to the date fixed for hearing and thus the petitioner was factually denied the opportunity of being heard in the matter before the order of stay came to be vacated. Without going into the merit of the matter, I am of the clear view that the impugned order need to be quashed and set aside being in breach of principles of natural justice, in as much as civil rights of the petitioner stands adversely affected.

3. Both the learned counsel appearing for the respective parties, submit that their respective clients undertake to appear before the State Government on 5-9-2007 and hence notice from the State Government to the parties be dispensed with. The learned AGP on instructions from the Officer of the State Government submits that the Minister concerned

would hear the revision on merit on the said date and dispose of the revision as expeditiously as possible preferably within two weeks from the date of hearing of the revision.

4. In view of the undertaking given by the counsel that the parties would remain present before the concerned Minister for hearing of the revision at 11.00 a.m. on 5-9-2007, notices by the revisional authority/State Government to the parties concerned are dispensed with.

5. Hence the petition is allowed. The impugned order dated 6-6-2007 is quashed and set aside. The order passed under section 16(2) by the Collector shall remain stayed till the decision of Revision. Rule made absolute in the above terms with no order as to costs.

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